

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA

v.

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)

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)

TERRY LAJEUNESSE

)

)

Defendant(s)

)

Case No. 1:19-MJ-1036 (CCKH)



CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of March 11, 2019 in the county of Warren, in the Northern District of New York the defendant(s) violated:

Code Section

18 U.S.C. § 2252A(a)(5)(B).

Offense Description

Possession of Child Pornography

This criminal complaint is based on these facts:

See attached

Continued on the attached sheet.

Attested to by the Applicant in Accordance with
the Requirements of Rule 4.1 of the Federal
Rules of Criminal Procedure.

Complainant's signature

Frederick W. Horstmyer Task Force Officer

Printed name and title

Judge's signature

Sworn to before me and signed in my presence.

Date: 10/3/2019

City and State: Albany, New York

Hon. Christian F. Hummel, U.S. Magistrate Judge

Printed name and title

Affidavit in Support of a Criminal Complaint

I, Frederick W. Horstmyer, having been first duly sworn, do hereby depose and state as follows:

1. I am a Task Force Officer (“TFO”) with the Federal Bureau of Investigation (“FBI”). I have been a sworn member of the New York State Police (“NYSP”) since 2007 and have been serving as an NYSP Investigator since 2012. I am currently assigned as a TFO to the Albany Division of the FBI, with the Child Exploitation Task Force (“CETF”), located in Albany, New York. My assignments include investigating violations of federal law — specifically, violent criminal offenses against children, including those involving the sexual exploitation of children. Your affiant has participated in the execution of numerous warrants involving the search and seizure of computers, computer equipment, software, and electronically stored information.

2. I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7) — that is, I am an officer of the United States who is empowered by law to conduct investigations of offenses enumerated in Title 18, United States Code, Section 2516(1). As an FBI TFO, I am authorized to seek and execute federal arrest and search warrants for Title 18 criminal offenses, including offenses related to the sexual exploitation of minors in violation of Title 18, United States Code, Section 2252A.

3. I make this affidavit in support of a criminal complaint charging TERRY E. LAJEUNESSE (“LAJEUNESSE”) with knowingly possessing material that contains one or more images of child pornography that has been shipped and transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, and that was produced using materials that have been shipped and

transported in and affecting interstate and foreign commerce by any means, including by computer, in violation of Title 18 United States Code, Section 2252A(a)(5)(B).

4. The statements contained in this affidavit are based upon my investigation, information provided by other law enforcement officers, and on my experience and training. As this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included each and every fact known to me concerning this investigation. I have set forth only the facts that I believe are necessary to establish probable cause to believe that LAJEUNESSE has violated Title 18, United States Code, Section 2252A(a)(5)(B).

Basis for a Probable Cause Finding

1. On June 6, 2018, while at Warren County, New York Court, LAJEUNESSE, pled guilty to section 263.16 of the New York State Penal Law, Possessing a Sexual Performance by a Child, a class E felony. A person is guilty of Possessing a Sexual Performance by a Child when, knowing the character and content thereof, he knowingly has in his possession or control, or knowingly accesses with intent to view, any performance which includes sexual conduct by a child less than sixteen years of age. As a result of the aforementioned conviction, LAJEUNESSE was sentenced in Warren County Court by the Honorable John Hall Jr. to a term of probation. The conditions of LAJEUNESSE's probation are attached hereto as "Exhibit 1". LAJEUNESSE signed the order and conditions of probation, acknowledging that LAJEUNESSE read and received a copy of the order and conditions of probation and understood the consequences of any violation. Specifically, special condition one of the order and conditions of probation states that LAJEUNESSE must "have no deliberate contact with persons under the age of 18 unless supervised by a person approved by [his] probation officer or the Court and only under circumstances approved by [his] probation officer or the Court." Further, special condition nine

states that LAJEUNESSE must “permit search of [his] person, vehicle and place of abode, including any computers or other electronic devices..., such search to be conducted by a Probation Officer or a Probation Officer and his agent.”

2. Warren County Probation Officer Mark Murray was assigned to supervise LAJEUNESSE during his probation term. On February 23, 2019, Probation Officer Murray received information that LAJEUNESSE was in a romantic relationship with a teenage female, in violation of special condition one of LAJEUNESSE’s probation terms. Thereafter, on March 11, 2019, pursuant to LAJEUNESSE’s probation terms, Warren County Probation Officers Mark Murray and Samantha Mason conducted an unannounced visit to LAJEUNESSE’s residence in Pottersville, New York. While inside LAJEUNESSE’s residence, LAJEUNESSE identified a Samsung, model SM-G9354, cellular phone (hereinafter, “LAJEUNESSE’s cell phone”) as belonging to him, and handed his cell phone to Probation Officer Murray. Thereafter, Probation Officer Mason conducted an initial search of LAJEUNESSE’s cell phone pursuant to special condition nine of LAJEUNESSE’s probation terms. During that search, Probation Officer Mason observed that applications were installed on the device which she believed were capable of storing media files (Images/Videos). In addition, Probation Officer Mason observed a still picture or thumbnail of a video which she did not play. Probation Officer Mason described the thumbnail image as depicting two teenage females. One of those females, who was nude, appeared to be approximately 13-14 years of age. LAJEUNESSE’s cell phone was subsequently seized for the purpose of having a forensic search conducted, pursuant to special condition nine of LAJEUNESSE’s probation terms.

3. On March 15, 2019, in accordance with the conditions LAJEUNESSE’s probation and upon Probation Officer Murray’s request, New York State Police Investigator John Deyette conducted a forensic examination of LAJEUNESSE’s cell phone. Said examination produced

numerous images and at least one video which depicted minors engaged in sexually explicit conduct. An examination of the cell phone also revealed that this particular brand of cell phone was manufactured in Korea.

4. On April 2, 2019, based upon the results of Investigator Deyette's forensic examination, LAJEUNESSE was arrested and charged with a violation of New York State Penal Law Section 263.16, Possessing a Sexual Performance by a Child.

5. Your Affiant reviewed portions of the content which was captured by Investigator Deyette during his forensic analysis of LAJEUNESSE's cell phone. Said content contains images and at least one video depicting child pornography as defined in Title 18, United States Code, Section 2256. The aforementioned video and images are available for the court's review. Examples of said material are listed and described below:

- A video, entitled "DarkSeductress", which depicts a female, approximately 11-14 years of age, with her legs spread and vagina exposed in a lewd and lascivious manner. The child is depicted placing her finger inside her vagina.
- An image, entitled "439431690264114028.0_embedded_1.jpg", which depicts a nude male, approximately 10-13 years of age. The male's penis is erect and he is seated next to two nude females of the same approximate age range. The male appears to be touching the stomach area of the two nude female children.
- An image entitled "495400187596245493.0_embedded_1.jpg", which depicts a female, approximately 10-13 years of age. The female has her leg resting on a windowsill, with her vagina exposed in a lewd lascivious manner.

Conclusion

6. Based upon the above information, there is probable cause to conclude that, on March 11, 2019, TERRY E. LAJEUNESSE knowingly possessed material that contains one or

more images of child pornography, that is a Samsung cellular telephone, manufactured in Korea containing multiple image and video files depicting minors engaged in sexually explicit conduct, in violation of Title 18, United States Code, Section 2252A(a)(5)(B).

Attested to by the Applicant in Accordance
with the Requirements of Rule 4.1 of the Federal
Rules of Criminal Procedure



Frederick W. Horstmyer
Task Force Officer
Federal Bureau of Investigation

Sworn to me this 3 day of October, 2019.

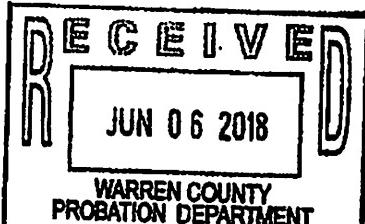


Hon. Christian F. Hummel
United States Magistrate Judge

EXHIBIT 1

JH

Warren County Probation Department
 1340 State Route 9, Lake George, NY 12845
 518-761-6444 *Entered*
 Orders and Conditions of Adult Probation
 Check if Amended Conditions



Warren County Court
 County of Warren

Ind/Docket No. 2018-009-I
 Defendant: Terry E LaJeunesse
 Criminal Justice Tracking Number: 32783193H

Defendant Terry E LaJeunesse having been (convicted of) (adjudicated as):
 Youthful Offender

PL 263.16 E F 0 - Possessing Sexual Performance By Child <16:Possess/Access To View

Is this day ORDERED sentenced to probation for a period of 10 years to expire on 6/5/19 unless terminated by the Court prior to the aforementioned date. While on probation, said defendant is ORDERED to comply with the following conditions and any others which the Court may impose at a later date and to follow the instructions of the probation officer as to the way in which these conditions are to be carried out.

General Conditions:

1. Answer all reasonable inquiries by the Probation Officer and promptly notify the Probation Officer prior to any changes in address, employment, or persons residing in the household.
2. Remain within the jurisdiction of the court unless granted permission to leave by court or Probation Officer.
3. Report to a Probation Officer as directed by the Court or the Probation Officer and permit the Probation Officer and/or his agent to visit you at your place of abode or elsewhere.

Special Conditions:

1. Have no deliberate contact with persons under the age of 18 unless supervised by a person approved by your probation officer or the Court and only under circumstances approved by your probation officer or the Court.
2. That the Defendant obey the directions given by the Probation Officer to ensure compliance with the Conditions of Probation.
3. Be gainfully employed at suitable verifiable employment and/or attend school on a regular basis.
4. Not enter or linger near any places where children congregate without prior approval of the Court or Probation Officer.
5. Serve weekends in the Warren County Jail pursuant to Section 60.01(d) of the New York State Penal Law.
6. Notify any person, that you may engage in a relationship with, of your offense, if the person has children or contact with children under the age of 17 in their residence. Do not enter or reside at this person's residence, unless first granted permission by the Court or Probation Officer. The Probation Officer will discuss the offense with the person prior to granting such approval.
7. Submit to any examination or evaluation directed by the Probation Officer and take part in such treatment and counseling, including residential treatment, as may be required by the Probation Officer until successful completion of said program.

Warren County Probation Department
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Orders and Conditions of Adult Probation

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8. Undergo an alcohol and/or drug abuse evaluation at an OASAS licensed treatment agency within 90 days of initial appointment with Probation Officer and participate in treatment if so recommended, including both in-patient and out-patient programs and remain in said facility or program until successful completion including all aftercare recommendations.
9. Permit search of your person, vehicle and place of abode, including any computers or other electronic devices, and seizure of any narcotic implements or illegal drugs, such search to be conducted by a Probation Officer or a Probation Officer and his agent.
10. Refrain from knowingly entering into or upon any school grounds or any other facility or institution primarily used for the care or treatment of persons under the age of 18 while one or more such persons under the age of 18 are present unless you are a registered student, or participant or employee of such facility or institution who has been granted written authorization by the Probation Officer or the Court and the Superintendent or Chief administrator of such facility. If permission has been granted, you will be limited to those purposes for entering the facility or institution as specified by your Probation Officer. (Required)
11. Reside in a residence approved by the Probation Officer and notify the Probation Officer of any changes in household composition within one business day of any changes made.
12. Shall abide by such curfew as directed by your Probation Officer and shall be at your residence at the hours established in your curfew. 10pm - 6 am
13. Have no deliberate contact with the victim, either personally or by letter, telephone, or third party communication, without permission of the Court or Probation Officer.
14. Not to use/possess/view pornography, erotica, or any other sexually stimulating material/media or items. Do not enter adult book stores, sex shops, topless and/or nude bars, massage parlors, or any other establishment that your Probation Officer deems inappropriate.
15. Shall pay a fine and surcharge (Including \$50 DNA fee if applicable) in the total amount of \$_____, payable to the Court within 30 days of sentence to probation, or by date of _____.
16. You will not use or possess any substance, device, or procedure which may mask or conceal the consumption of marijuana, alcohol, controlled substances, or drugs or influence blood and urine drug and alcohol screens or Breathalyzer results.
17. Enroll in, participate, and abide by the requirements of a sex offender treatment program until completion of the program under favorable circumstances.
18. Not possess, carry or own any firearms unless you are granted a State Certificate of Relief from Disabilities.
19. Not purchase, possess, or indulge in the use of alcohol or products that contain alcohol. Submit to any tests generally recognized as scientifically reliable to determine

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- whether you have been using alcohol; all such costs related to this condition will be at your expense. Payment (money order payable to National Toxicology Center) for laboratory tests shall be made within five business days of collection of the sample.
20. Promptly provide an appropriate sample as directed by the Probation Officer for DNA testing pursuant to Section 995-C(3) of the New York State Executive Law.
21. Comply with any and all Order(s) of Protection issued by any Court(s).
22. Not consume, purchase, or possess marijuana, any controlled substances or drugs, the possession of which is illegal without a prescription. Submit to random drug screening/testing to determine whether you have been using drugs, marijuana, or controlled substances and provide a signed Release of Information allowing access to your medical records; such costs related to this condition will be at your expense. Payment (money order payable to National Toxicology Center) for laboratory tests shall be made within five business days of collection of the sample.
23. Refrain from violating any Federal, State, or Local laws. Notify the Probation Officer within one business day of any arrest, questioning, or contact by a law enforcement officer.
24. You will agree to unannounced examination by the supervising Probation Officer or designees of any and all computer(s) and/or other electronic devices(s) to which you have access. This includes access to all data and/or magnetic tape, cell phones, flash drives, memory cards, and/or any storage media whether installed within a device or removable. This examination may be conducted where the equipment is located or may be removed and examined in a controlled or laboratory facility. If a device/program is password protected, probationer shall disclose said password to his/her Probation Officer.
25. Comply with all requirements of the New York State Sex Offense Registration Act.
(Required)
26. Refrain from entering or frequenting any establishment whose primary purpose is the sale of alcoholic beverages and refrain from entering or frequenting the bar section of any restaurant or the bar section of any other public and/or private establishment.
27. Report any Family Court matters and provide copies of all Family Court Orders to your Probation Officer by the beginning of the next business day.
28. Submit to photographing by Probation Department.
29. Attend any alcohol educational classes or any community recovery support group meetings directed by the Probation Officer and provide verification if so requested by the Probation Officer.
30. Not associate with any drug users or convicted criminals.
31. Probationer shall submit to polygraph testing at their own expense to determine if they are in compliance with their Conditions of Probation and/or to facilitate treatment.
32. The defendant shall not have in his possession during probation appointments, any instrument which could be used as a weapon against or construed by the probation officer

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to be a weapon (i.e. razor blade, box cutter, hypodermic needle, etc.) or any weapon as defined in Article 265 of the New York State Penal Law.

33. Do not inhale, ingest, smoke or misuse any household products for any purpose for which they are not intended including, but not limited to bath salts, gasoline, propane, air fresheners, furniture polish, whipped topping and incense. Specifically, the possession and/or use of synthetic marijuana (e.g., Posh, Wicked, K2, Spice, Happy Hour, etc.) or any other mind altering substance is strictly prohibited.

34. If you are a registered sex offender, you will report to the New York State Sex Offender Registry any Internet accounts with Internet service providers belonging to you and e-mail addresses and designations used by you for the purpose of chat, instant messaging, social networking or similar Internet communication. In addition, you must notify SORA and your Probation Officer within 10 days of any change of the above mentioned Internet information. (Required)

35. That the defendant not own, purchase, use, carry or transport firearms or other dangerous weapons, as described in Article 265, New York State Penal Law, for the duration of the probation sentence.

36. The Probation Officer shall have the ability to search social networking internet sites and/or programs for probationer information. If the internet site/program is password protected, the probationer shall disclose said password to his/her probation officer.

37. You are prohibited from using the internet to: access pornographic material and/or any commercial social networking website; communicate with other individuals or groups for the purpose of promoting sexual relations with any person(s) under the age of 18; communicate with a person under the age of 18 when you are over the age of 18. (Required for sex offenders whose victim was under the age of 18 at the time offense (or) all level 3 offenders regardless (or) if the Internet was used in the commission of the offense).

38. Do not apply, join or engage in any occupation or volunteer activity that brings you in contact with children/minors, without the permission of the Probation Officer or the Court.

39. Do not download, install, or use any games or applications on any electronic device, such as a smart phone, gaming system, or tablet capable of connecting to the internet, cell phone network, or other computer network, which has the ability to lure, communicate, and/or interact in any manner with a child who is under the age of 18 either electronically or in person.

Authorization to Release Information: The Court authorizes the Probation Department to release the Pre-Sentence Investigation, police reports/statements, supervision material to the sex offender treatment program/therapist, polygraph examiner, psychologist for the purpose of the psycho-sexual evaluation, mental health counselor, school authority, and police, CPS, and DSS (for the purpose of placement in a residential

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facility or shelter). This authorization satisfies the requirements of CPL 720.35 Sub. 2 concerning Youthful Offender Adjudication.

Dated: 6/6/18


Hon. John Hall Jr.

ACKNOWLEDGEMENT

I have read and received a copy of the above Order and Conditions of Probation and agree to comply with them. I understand the conditions and that the Court may, at any time prior to the expiration or termination of the period of probation, modify or enlarge the conditions or, if I violate a condition or commit an additional offense other than a traffic infraction, revoke the sentence. I also understand that effective 1/1/04, all persons sentenced to probation subsequent to a DWI conviction are subject to an administrative fee of up to \$30.00 per month in accordance with Local Law 3-2003 pursuant to Art. 12-A section 257-c NYS Executive Law.

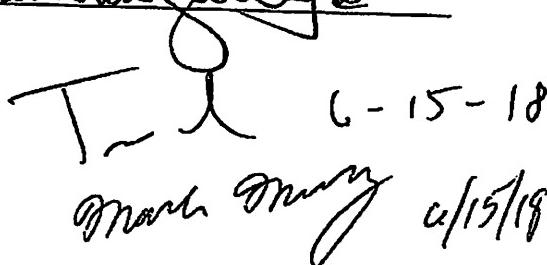
Dated: 6-6-18

Probationer: Terry LaJeunesse

Probationer's Address: 2801 St Rt 9 Pottersville NY 12868

Probationer Telephone#: 518-932-2980

Witnessed By: Mark Murphy


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Mark Murphy 6/15/18